

1 Rene L. Valladares
2 Federal Public Defender
3 Nevada State Bar No. 11479
4 *Amelia L. Bizzaro
5 Assistant Federal Public Defender
6 Wisconsin State Bar No. 1045709
7 411 E. Bonneville Ave., Ste. 250
8 Las Vegas, Nevada 89101
9 (702) 388-6577
10 amelia_bizzaro@fd.org
11

12 *Attorney for Petitioner Michael L. Smith.

13 UNITED STATES DISTRICT COURT
14 DISTRICT OF NEVADA

15 Michael L. Smith,
16 Petitioner,
17 v.
18 Renee Baker, *et al.*,
19 Respondents.

Case No. 3:13-cv-00246-RCJ-WGC

**Unopposed Motion for Extension
of Time to File Opposition to
Motion to Dismiss**

(Second Request)

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27

On August 23, 2016, this Court granted a stay and administratively closed Smith's case while he returned to exhausted his claims.¹ After completing his state court proceedings, Smith sought to reopen the federal case, and submitted a copy of his Second Amended Petition.² This Court granted the request and ordered the warden to file a response.³ After three extensions, the warden filed a motion to dismiss on March 8, 2019.⁴ Smith previously asked for one 90-day extension to file his Opposition, making it due today.⁵

This extension is necessary to allow counsel time to prepare and file Smith's Opposition, addressing the myriad of procedural defenses the warden claimed including exhaustion, procedural default, waiver, and allegations that some of his claims are not cognizable on federal habeas.⁶

Counsel's prior extension request took into account that she would be on medical leave for several weeks and out of the country for an additional two weeks. Counsel's return to work was slowed, however, based on treatment for a complication from surgery.

⁶ ECF No. 52.

1 The complication has finally resolved. Since returning to work full time on
2 June 24, 2019, counsel has been working hard to catch up. Counsel traveled to Elko
3 County on June 30, 2019, for a plea hearing on July 1. Counsel was out of the office
4 July 11-16 for personal and professional reasons.

5 Counsel filed a reply in support of a Rule 60(b) motion on July 11, 2019, and
6 an opposition to the warden's request to file a successive motion to dismiss in
7 another case on July 17, 2019. Counsel has been working continuously on a case
8 with a July 25, 2019 AEDPA deadline. Counsel has an opposition to a motion to
9 dismiss due July 29, 2019 in a large, complicated case, in which no further
10 extensions will be granted. Counsel will be out of the office August 2, 7-9, 12, and 30
11 for a combination personal travel, client visits, and a conference.

12 This extension will give counsel the time she needs to complete Smith's
13 opposition. This motion is not filed for the purposes of delay but in the interests of
14 justice, as well as in Smith's interests. Accordingly, Smith respectfully asks this
15 Court to grant the requested extension to September 5, 2019.

16 Counsel contacted Senior Deputy Attorney General Allison Herr by e-mail
17 today, who replied that she did not object to the requested extension.

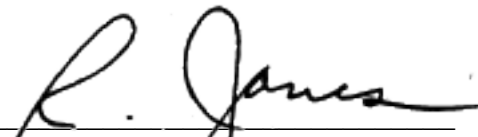
18 Dated July 22, 2019.

19 Respectfully submitted,

20 Rene L. Valladares
21 Federal Public Defender

22
23 /s/Amelia L. Bizzaro
24 Amelia L. Bizzaro
25 Assistant Federal Public Defender
26
27

IT IS SO ORDERED:



United States District Judge

Dated: ____ **August 9, 2019** ____

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27